G.R.S. IX—5]

Previous references. 1920. **File No.** 233-20

Ab. 233-20-6. (Ab.) **Serial Nos.** 105, 7, 8

Later references.

Ab 221-21 (1-5).

Preserve

Preserve M. 25/4/45

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Seven

Part B for December 1922.

SUBJECT

Loss by theft of certain properties and cash in the Court House of the First class Magistrate Kolar Sub division, and action proposed to be taken against the officers responsible for it

8(8) To

The Registrar, Chief Court

The Comptroller.

The D. C. Kolar &c

No. P. 4627-29 of 1. 12. 22.

directs that the amount of Rs. 210-2-0 be recovered proportionately from the Magistrate and the Clerk in the ratio of their pay, the excess paid by the Clerk being refunded to him.

Printed on the Multigraph.

M. Nagesha Iyer
30/12/22.

(For Disposal at a Meeting)

No. C. 212

.....9.....1922-3

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

SUBJECT.

(Clause xxvii of the schedule)

Loss by theft of certain properties and cash connected with certain criminal cases on the file of the First Class Magistrate Kolar Sub Division and the action to be taken on the conduct of the officers responsible for it.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

17th November 1922

Chief Secretary to Government.

Extraordinary Member of Council.

4162-546
18.11.22

First Member of Council. Seen
20.11.22

Second Member of Council. Seen

Third Member of Council.

F. R. S. 11] 1921

GENERAL AND REVENUE SECRETARIAT.

(Cks)

NOTES.

File No. 289-20

FILE HEADING.

Loss by theft of certain properties Connected with Criminal Cases in the First Class magistrate's court. Kolar Subdivision

From

The Magistrate Kolar Court

No. 889 Dated 5-4-1921 Received 8-4-192

Diary No. 2187	Enclos.	Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Reports the loss by theft of certain properties and Cash Connected with certain Criminal cases on the file of the First class Magistrate Kolar Subdivision and States that the Dt magistrate has been requested to obtain the explanation of the First class magistrate as to why the property and cash were not made over to the Treasury in sealed packets as per standing orders and promises a further report in NOTES AND ORDERS. the matter

Submitted with a draft

14/5/21

2) I Secy.

D. 14/5.

NOTES—First Sheet.

21187

G. R. S. III-2)

General and Revenue Secretariat.

CS File No. 239 of 1920.

Serial No.	
2	To The Registrar, Chief Court. No. G 21663 Dy 17-5-21. Enquires what progress has hitherto been made re: theft of certain properties connected with Cr. cases in the 1st class Magistrate's Court @ Kolar.
3	From The Registrar Chief Court Letter no 8 & 9 Dy 13-6-1921 Forwards the report of the Deputy District Magistrate and the explanation of the I class Magistrate and states that the Police investigation may throw further light in the matter. Submitted.
3)	The explanation of the Assistant Commissioner and the First class Magistrate and the report of the District Magistrate have been forwarded but not the explanation of the clerk Bhujangarao the result of the Police investigation may be awaited
4)	Submitted for perusal
5)	Please see the 1st Member's note in which the question of the explanation of the 1st class Magistrate which has been called for. Please put up that file & also the connected files
6)	Please put up file

O. PUBLIC BRANCH. 14 JUN 1921

19/6/21

7305 19.6.21

NOTE—Contn. sheet.

G. R. S. III-2

26067

General and Revenue Secretariat. | CS File No. 2 39 of 1928.

Serial No.

Send
7/Od file in the matter is hereinafter linked.

Note -
Please make another ... for the files referred to ...
(1)
32/2.7.28

(2) 8) It does not contain any reference to the responsibility of the Magistrate
2nd Member. D. M. (1)

9) The Magistrate cannot be exonerated from blame - he does not appear to have exercised sufficient supervision over the work of his clerk. Even if any blame should be imputed to his clerks for the omission to enter the charge in the register, the Magistrate himself cannot escape responsibility for the omission to enter the charge in the register of cases which he himself was required to maintain.

~~Report~~
The Magistrate's conduct will have to be noticed after finally the case -

10) Further report about the progress of the case may be called for.

Sd/-
26/7

11) Draft letter
D. M. 28/7

NOTE—Contn. sheet.

CS 28/7

G. R. S. III-2]

General and Revenue Secretariat.

File No. 239 of 1920-21

Serial No.

12) Submitted with draft.

29/7/21

13) Issue to day

D. M.
12/8

14) So. See Resr each court
no 9435 dt 12.8.1921

Requests him to intimate the
result of the police investigation
referred to in the District Magistrate's
letter

1307/C

15) From
The Registrar Lahore Court
Letter no Roc Estg dt 6.9.21
Forwards a copy of letter received from the
Dt magistrate Kolar re the matter of the investigation
of the theft and States that a further communi-
cation will be made on the receipt of final report
Submitted for perusal: the final report
will approved be awaited. The suspicion
of the Magistrate entertained against
9/9/21 the Court Clerk of having fraudulently
abstracted the last proceedings is
proved to be false, though there was
some negligence on his part, which Mr D/T has asked to point out
to the Clerk Concerned. (initialled)

15) For perusal.

3rd Member) 9/9/21

Scott

NOTE—Contn. sheet.

1926
16.9.21

20/9/21

23.9.21

G. R. S. III-21

General and Revenue Secretariat.

LOHC 271/17

File No. 239 of 1920.

Serial No.

7

From

The Regr. Lehieq Court

Letter no dlac 885 d. 11.7.20

Forwards a report re the matter of the loss of property by theft in the Kolar Lahdg magistrate's court.

(6) The Regr. states that two Christian residents of the place have been convicted and that property valued at Rs 178/- was recovered out of the property estimated at Rs 388-2-0. The balance of Rs 210-2-0 is reported to have been recovered from the judicial clerk of the court. The D/ magistrate reports that the suspicion against the clerk has been removed. But the amount recovered from him does not seem to have been refunded.

17) The Regional Lehieq Court and the District magistrate think that the explanation of the magistrate concerned is unsatisfactory. The District magistrate as he puts the whole blame on the lowly paid clerk.

18) Submitted for orders. Reference paras 9 & 10 above.

19) Both the magistrate & the clerk are responsible for the loss, and must share in making it

NOTE—Contn. sheet.

Serial No.

up. The magistrate is perhaps more to blame, as he has put in years of service.

20) Application of the clerk for a refund of the whole amount cannot be countenanced. The proportion in which they are liable has to be fixed.

Gen Secy

Cag
19.7.22

~~Second Member~~ ~~15~~

21) If the clerk is to get any refund out of the Rs 210-2-0 paid by him, the proportion to be borne by the magistrate and clerk may perhaps bear some ratio to their pay

Second Member

1358
28.8.22

Cag
28/8

22) As recommended except as regards the last paragraph which may be left over. The clerk & the magistrate were not known to have made the illegal promise which is made liable for the loss.

Ldc
29/8

23) R 3078/22

Appears to be a Schedule matter. Any way some explanation may be given.

Cag
7/9

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat. | CS File No. 219 of 1920-21

Serial No.

24) Minutes with draft-

8/9/22 (2) (5) The language of the draft, particularly in the reading portion requires rechecking. It does not bring out the proper sense. Para 2 of the order requires similar attention. Please put up a revised draft. Cay 10/9

5/28/9/22 25) Submitted with amended draft-

2/10/22 (6) Another draft containing the preamble & transferring the facts of the case also to the order portion is put up.-

Appd 16/10 (7) This taken may be appd.

Do approved

Genl Secy

Cay 17.10.22

28) In para 23 of Rewards the question as to whether this is a scheduled matter has been raised. Cl V of Schedule refers to reduction in pay, Council Rule 14 (a)(7) refers to "Cases of personal conduct of officers involving questions of suspension or dismissal" & Cl xxvii of the Rules

NOTE—Contn. sheet.

General and Revenue Secretariat.

File No. 29 of 1922

Serial No.

Repers & rati questions of the interpretation of the Rules of Business including Case, as to which there is a doubt whether they come under the Schedule (The points to be decided are (1) whether the Case comes under the Schedule or is a Council Case & (2) whether the draft may be approved

2405 20-10-22 Secretary Member

18.10.22

29 (1) Draft revised as per Member's note

(2) A revised typed draft is put up which may be submitted. This also for approval before issue.

20/10/22

Secretary

20/10/22

(3) This is a Schedule matter.

20.10

(4) R.S. 23/10/22

Received 23/10.

NOTE—Contn. sheet.

G. R. S. III-21

General and Revenue Secretariat.

C/5 File No. 259 of 19 2021

Serial No.

34) Strictly speaking this ~~case~~ is not a scheduled subject. It does not fall under cl V in Sch B or under cl (7) of Sec 14 of the manual of Council Rules and Procedure.

35) But under Sec 5 of the rules the Diwan may refer non-scheduled cases to the Council. In a similar case, put up below, such a procedure has been adopted

Gen' Secy)

Rem. (File No 4-20)

Cag 25/10/22

36) All the authorities have now been cited. It appears to me that this is a scheduled subject. Reduction in pay imposed & in cl v of the Schedule is wide enough to cover the present case. At least ambiguity cannot well be denied in respect of cl v so far as I can see. Even in the case of ambiguity, the present case will be a scheduled subject, as ambiguous cases fall under the Schedule cl xxvii.

Second Member

Diwan

2561/26x22

25/10/22

Cag 25/10

NOTE—Contn. sheet.

Serial No.

37) Article 7 (xvii) Schedule B does not apply this case as it does not involve a question of interpretation of rules and hence can also be no doubt that it does not come under the rules. Prior it is open to Government to refer any non-scheduled case to Council.

Sd
14/11

Dewan 15/11/22

38) Sum of 210.2 m received from the clerk & 170 received from the accd Total Rs 380.

39) The contention of the Rs 210.2 which the clerk had refused to return a charge against the magistrate concerned is C

Sd
16.11

40) To the Chief Secretary with Compliments

41) circulated by Sd/- 16/11/22

NOTE—Contn. sheet.

Extract from the Proceedings of the 651st *Meeting of the Council of His Highness the Maharaja, held at Bangalore on the* 23rd November 192[illegible]. *19*

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128. Subject. - Clause xxvii of the schedule.

Loss by theft of certain properties and cash connected with certain criminal cases on the file of the First Class Magistrate, Kolar Sub Division and the action to be taken on the conduct of the officers responsible for it.

OPINION OF THE COUNCIL.

The draft Government Order may be approved.

(Signed) A. R. BANERJI,

DEWAN OF MYSORE.

"EXTRACT"

Chief Secretary to Government.

WD 433—GPB—1,000—1-9-20

R. S. III-21

C. 212 /13

General and Revenue Secretariat. | File No. of 19

Serial No.

Subject. -

Loss by theft of certain properties and cash connected with certain criminal cases on the file of the First Class Magistrate, Kolar Sub Division and the action to be taken on the conduct of the officers responsible for it.

....

Extract from the Proceedings of the Council is submitted.

Second Member:-

24/11/22

3335
25-11-22

Dupl. copy may issue as desired
& the file submitted again for instructions
in Mr. Meighen's absence on tour.

25/11

43) D. F. W. regd

25/11

CB 25/11/22

44) D. F. W. regd.

25/11/22

25/11

25/11/22

NOTE—Contn. sheet.

Final Note by the Second Member of Council.

Subject :— Loss by theft of certain properties and cash connected with certain criminal cases on the file of the First Class Magistrate Kolar Sub Division and the action to be taken on the conduct of the officers responsible for it.

---

45 The accompanying papers relate to the occurrence of a theft in the Court-house of the Assistant Commissioner and First Class Magistrate, Kolar Sub Division, on the 15th February 1921. It is reported that articles and cash of the aggregate calue of Rs.388-2-0, produced in connection with certain cases on the file of the Court, were stole and that, of these, property worth Rs.178/- was subsequently recovere by the Police. The net loss therefore amounts to Rs.210-2-0, for which the Magistrate (Mr.T.Venkataramiah) and the Court Clerk (Bhujanga Rao) are accountable. It is proposed to call upon them to make good this loss in proportion to their pay.

Draft for approval 46 2. The draft order herewith submitted explains the circumstances of the case in detail. It has been passed by the Council and may be graciously approved.

25th November 1922. MEMBER OF COUNCIL.

G. R. S. IV—6]

Submitted to His Highness.

47)

I submit herewith a Final Note by the Second *Member of Council on the subject of* loss by theft of certain properties and cash connected with certain criminal cases on the file of the First Class Magistrate, Kolar Sub Division and the action to be taken on the conduct of the officers responsible for it,

for His Highness' gracious approval.

Dewan.

28 NOV 1922

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

Loss by theft of certain properties and cash in the Court House of the First Class Magistrate, Kolar Sub Division, and action proposed to be taken against the officers responsible for it.

45

Order.

48) KRW
29/11/22

49) Secretary
30 NOV 1922

G. R. S. III-2.]

C 212

General and Revenue Secretariat.	File No.	of 192

Serial No.

Loss by theft of certain properties and Cash in the Court house of the First class Magistrate Kolar Sub Division, and action proposed to be taken against the Officers responsible for it.

31. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circutated to the Members of Council at headquarters and then sent to the Secretariat concerned for the issue of orders.

50) Circulated to the Members of Council for perusal of

His Highness' orders ~~before~~ / after issue of orders. (*Vide* Rules 31, 33 and 34 or the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

Chief Secretary to Govt. 30/11/22

Through the Secretary to Government,

....Department.

4617-109.
4.12.22

51) FIRST MEMBER OF COUNCIL

5.12.22

3494
1-12-22.

52) SECOND MEMBER OF COUNCIL

Mr. T. Venkatarangaya from whom a portion of the cost is proposed to be recovered in the disciplinary proceedings was transferred to be retired from 4-12-22

THIRD MEMBER OF COUNCIL.

NOTE.—Contn sheet.

WD 923—GPB—500—3-11-21

53) Secy to Govt Secy.
5/12 1/12/22 A.S. Protector
5.12.22

F. R. S. III-2]

General and Revenue Secretariat.

Cs File No. 239 of 1920.

Serial No. 8

C

G.O No P 4627-29 d 1.12.22

To The Regr Chief Court
The Comptroller to Govt
The Dt Magte Kolar

Directs that the amount Rs 210-2-0 be recovered proportionately from the Magistrate & the Clerk in the ratio of their pay, the excess paid by the clerk being refunded to him.

55) The file to be sent to the Confidential Branch for circulation to the Hon'ble Member of Council for perusal of H.H's orders.

HH. 2/12/22

56) 2/12

Cs 4/12/22

Secretariat 9/12

19 DEC 1922
JUDICIAL BRANCH.

NOTE—Contn. sheet

Roc. 889
20-21

1920-21 DIARY No. 2118

Chief Court of Mysore,
Bangalore, dated 5th April 1921

239-20

68809

JUDL. & REV. SECTN
18 - APR 1921

From

C. SRINIVASA IYER, Esquire, B.A., M.L.,
Registrar of the Chief Court of Mysore

To

K. M A T T H A N, Esquire, B.A.,
Chief Secretary to the Government of Mysore
Bangalore.

Sir,

HOME
18 APR 1921

I am directed to state that the District Magistrate of Kolar reports the loss by theft on the 13th February 1921, of properties consisting of cash to the extent of Rs. 261-3-0 and silver and gold jewels worth not more than Rs. 10 or 15 connected with Criminal Cases Nos. 82, 93 and 97 of 1920-21 on the file of the Sub Divisional Officer and First Class Magistrate, Kolar Sub Division. The cash and the jewellery are reported to have been left in charge of the judicial clerk of the First Class Magistrate's Court instead of being made up in sealed packets and sent to the Treasury for safe deposit, as required by the standing orders on the subject. The matter is under police investigation. The District Magistrate has also been asked to obtain and send in an explanation of the First Class Magistrate, in the [illegible]

I may be added that on receipt of detailed information from the District Magistrate, a further report on the subject will be made to Government.

I have the honour to be,

Sir,

Your most obedient servant,

REGISTRAR.

G. R. S. VI—G/32]

SUBJECT.....

.....

.....

Diary No. of letter replied to 2187

General and Revenue Secretariat

( )

, *the* 191 .

Date of issue 17/5

Signed by

Section Cb

File No. 239-20

Serial No. 2

No. 2187/53

To

The Registrar, Kolar Court.

Sir.

With reference to your letter No Roc 889/20-21 dt 5-4-1921, reporting the loss by theft of certain properties and cash connected with certain criminal cases on the file of ~~the file of~~ the 1st class magistrate Kolar Sub Division, ~~and forwarding a further detailed report~~. I am directed to enquire what progress has hitherto been made in the matter.

over.

I have etc

Dy Secy

for Secy

16/5

List of enclosures.

Copied by

Examined by

03188

Roc 889 for 3
2014
26067

15 JUN 1921

Chief Court of Mysore,

Bangalore dated 13th June 1921.

cls
239-20

From

G. Sreenivasa Iyer Esq., B.A., M.L.,

Registrar of the Chief Court of Mysore,

Bangalore.

To

B. Ramaswamaiya Esq., B.A., B.L.,

Secretary to the Government of

His Highness the Maharaja of Mysore,

Revenue Department.

17 JUN 1921

Sir,

With reference to your letter No. G. 21663 Cts. 239-20-2 dated 17-5-1921 regarding the loss by theft of certain properties and cash connected with certain criminal cases on the file of the 1st Class Magistrate, Kolar Sub Division, I am directed to forward herewith, for information, copy of letter No. J.C.712 of 20-21 dated 6-6-1921 (with that of its enclosure) received from the District Magistrate, Kolar, in the matter and to add that the result of the Police investigation under progress referred to in the last paragraph of the District Magistrate's letter may probably throw further light on the circumstances attending the disappearance of the articles.

I have the honour to be,

S i r ,

Your most obedient servant,

G Sreenivasa Iyer

Registrar.

PKS

Letter ~~dated~~ No. R.J.C. 712 of 20-21 dated 6th June 1921 from the District Magistrate, Kolar District, to the Registrar of the Chief Court of Mysore, Bangalore.

With reference to your docket No. R.O.C. 889 dated the 5th April last, calling for the explanation of the officer concerned, as to why the procedure prescribed in the Standing Orders regarding the safe custody of Court properties was not adhered to, I have the honour to forward herewith in original letter No. 705 of the 2nd May received from the Sub Division officer and 1st Class Magistrate, Kolar, explaining the circumstances under which the departure from the rule took place.

2. From the report of the Magistrate and the explanation of theClerk, it is evident that Clerk Bhujanga Rao who was in charge of theproperty is guilty of sheer negligence and failure to conform to the procedure enjoined in the Standing orders re: the custody of Court articles, and took on himself without authority, the heavy responsibility of retaining in the office property which should have been consigned to the Treasury for safe custody. From the entries in the "custody note book", it is quite manifest that the clerk was fully aware of the Standing orders on the subject and in evidence of it, has several times sent the property in a sealed box to the District Treasury for safe custody under the direction of the Magistrate including the present officer. He had, however, no manner of justification whatever, to retain with him the properties which were subsequently stolen. It should also be remembered in this connection that for more than a month prior to the commission of the offence

the

the box had been lodged in the Treasury. His explanation that owing to heavy work, he forgot to secure them in the box in the Treasury is unsatisfactory and cannot at all be accepted. It is thus clear that he has exhibited gross indifference and utter carelessness in the discharge of the resposible duty that devolved upon him as the custodian of Court properties.

3. The Presiding Magistrate, however, appears to consider, so far as the tenor of his explanation goes, that he has had an idea of the practice in the matter of the safe custody of Court articles, but I am constrained to observe otherwise in this matter. The Circular orders of the Chief Court noted in the margin, are, I think sufficiently explicit enough and the rules referred to by the Magistrate in the criminal Digest do not, in my opinion, take away the responsibility from him, though they fix the primary responsibility on the Nazir i.e., the Court Clerk. I think the Magistrate should have exercised more effective supervision and looked to the strict enforcement of the Standing Orders and had this been done, there would have been little or no chance for the occurrence of the House breaking and theft and the loss of Court articles.

No.	175	dated 31-3-1908
"	188	" 30-4-1913
"	216	" 27-2-1920

4. Since the occurrence of the house breaking and theft under reference, a similar case happened in the early part of may, in which the Court property box with summary articles of no appreciable vaue was removed and thrown under a tree in close proximity to and in front of the Court House. It is reported that no property has however, been lost. The case is under Police investigation as a result of which some property, perhaps, con-

connected with the old case is reported to have been detected, I have called for a detailed report from the District Superintendent of Police, on receipt of which, further communication will be sent.

Sd/-P. Suryanarayana Setty.

--------- ---------- For District Magistrate.

"C o p y"

Registrar.

PKS

Letter No. R.O.S. 705 of 20-21 dated 2nd May 1921 from the First Class Magistrate, Kolar Sub Division to the District Magistrate, Kolar District.

With reference to your memo No. 712 of 1920-21 dated 15th April 1921 forwarding a copy of docket from the Registrar of the Honourable the Chief Court in Mysore, and enquiring why the procedure prescribed in the standing orders was not followed regarding the safe custody of the court properties, I have the honour to state that as per instructions contained in the circular letters 175 dated 31-3-1908 (quoted by you) and No. 216 dated 27-2-20 referred to in the Registrar's docket, all properties of value were being kept in a secure box and lodged in the District Treaaury for ~~fax~~ safe custody. I keep the seal and the box is invariably opened and closed in my presence, and the lock is put on bu the Court Clerk as under the rules published in the criminal Digest published by the Registrar of the Chief Court of Mysore, it is the Nazir of the Magistrate's Court that receives the properties from the Police, and it is he that is responsible for its safe custody and production, when required.

2. As this practice of depositing cash and valuables in the District Treasury is being follwed for several years in this Court, no arrangements for guarding Treasure at nights contemplated in Rule 52 of office Routine were made.

The properties lost consist of cash Rs.253-6-0, currency notes Rs.8/-and gold and silver ornaments valued Rs.126-12-0 amounting in all to Rs.388-2-0. The bulk of these properties pertains to two disposed of cases one of

which

which was disposed of on 19-7-1920 and the other on 3-1-1921, while the remainder lost was Rs.33-2-0 of which Rs.19-2-0 was deposited as witness Batta in one case, and Rs.14-0-0 had been seized by the Police in a theft case and not claimed by the complainant. There was no reason for any of these being kept out of the Treasury.

3. I have already brought to the kind notice of the District Magistrate that the Judicial Clerk must have wilfully taken these properties from out of the box lodged in the Tresury. He was the official that handled the articles, and when he was disposedto be dishonset, it was no difficult task for him to keep a few articles out as some valuables had to be put into the Treasury box and a very large number of them which were ordinary articles were stowed away in his room. I think he must have done this when he last opened the box on 11-1-1921. In the pressure of work and in a heavy court like this, it is impossible for a Magistrate to see that every item of property relating to see that every item of property relating to each case is replaced before the box is locked up and sealed every day.

4. The circumstances under which the theft is alleged to have taken place, are in themselves so highly suspicious as the Police enquiry would surely bring out during their investigation and the very fact that there was not the slightest plausible excuse for the Judicial Clerk to keep such valuable properties out of the box lodged in the Treasury especially when the cases were disposed of and they were not likely to be required until the owners turned up and claimed delivery, that it leaves no room to doubt that this is a clear case of fraudulent abstraction of the properties by the clerk himself. He has paid Rs.150/- since, and the rest has to be

recovered from him by coercive measures for which I beg orders may kindly be passed.

A statement showing the number of the case relating to the properties lost and other particulars is enclosed for reference.

Sd/-T. Venkataramiya.
First Class Magistrate.
Kolar Sub Division.

" C o p y "

Registrar.

PKS

LIST SHOWING THE PARTICULARS OF THE PROPERTIES LOST IN THE THEFT WHICH TOOK PLACE IN FEBRUARY 1921.

Criminal case No.	Name of parties.	Date of institution.	Date on which property produced	Description of the property.	Value approximately.	Date of disposal of the case	When was the property lost taken out of the property-box-in-the Fry.	Name of the party to whom the property is to be returned
1	2	3	4	5	6	7	8	9
C.C.62/ 20-21	Government per Munivenkatamah of Masti VS. Junja	19-10-20	3-11-20	(1) Empty purses. (2) Cash Rs.141-4-0 (3) 13 cut stones. 11 white and 2 red. (4) a purse with black stripes. (5) cash Rs.49/- (6) Cash Rs.30/- (7) 2 silver Kuppas. (8) One pair of Jadi muru (9) One currency note of Rs.5/- (10) 3 currency notes of one Rupee each	238- 4-0	3-1-21		Munivenkatamah of masti.
C.C.111/ 19-20	Government per P. Venkataramanah VS. Chick Venkatiga and another	5- 3-20	4- 5-20	(1) A pair of gold Bugadies with muthoo (2) A pair of silver Kankanies. (3) A pair of gold Kathariba vali. (4) A pair of gold Vales. (5) Gold uthanda. (6) Gold Bavali (7) One gold Ryagade or Syamanthige bille.	116-12-0	19-7-20		Somanah of Gollehalli.
C.C.83/ 20-21	Government Vs. Saraswathamal and another.	26-11-20	26-11-20	Cash Rs.14/-	14- 0-0	Pending		
C.C.87/ 20-21	Peddamunisami Vs. Venkataramappa.	3-12-20	12- 1-21	Cash Rs.19-2-0 (without	19- 2-0	Pending		Gudiappa Rs.10-2-0 Ramachandra Rao Rs. 4-8-0 Judicial
				Total.....	388- 2-0			

						Legal....Rs. 4-8-0	
							Rs.19-2-0

Cash.....:.....Rs.253-6-0
Currency notes...Rs. 8-0-0
Gold & Silver....Rs.126-12-0

T o t a l....Rs.386-2-0

Sd/ P. Venkataramaiya,

First Class Magistrate,
Kolar Sub Division.

TDN/

E Sammaiah

Registrar

G. R. S. VI—G/32]

SUBJECT.....

.....

.....

Diary No. of letter replied to.....26067

GENERAL AND REVENUE SECRETARIAT

( )

, the *191*

Date of issue.....12/8

Signed by.....M-Rao

Section G5

File No. 239-20

Serial No. 4

No. J 735

To

The Registrar, Chief Court.

Sir,

With reference to your letter no Roc 889 of 13th June 1921 in the matter of the loss by theft of certain properties and cash connected with certain criminal case on the file of the I class Magistrate, Kolar Sub-Div I am directed to request you to ~~let~~ be so good as to inform the result of the police investigation referred to in the District Magistrate's letter. ~~Enclosures~~ ~~as enclosed~~

I have etc

D. M. Rao
for Rev Secy.

29/7/21

over.

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Roc 889 20

Chief Court of Mysore,

Bangalore, dated 6th September 1921.

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8 SEP 1921

From

A. SRINIVASA RAGHAVACHAR, Esquire, B.A., B.L.,
Registrar of the Chief Court of Mysore.

239-20

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To

B. RAMASWAMAIYA, Esquire, B.A., B.L.,
Secretary to the Government of Mysore,
Revenue Department, BANGALORE.

S i r,

Adverting to your letter No. J. 735/Cts.239-20-1, dated the 12th August 1921, requesting to be informed of the result of the police investigation in the matter of the loss by theft of certain properties and cash connected with criminal cases on the file of the First Class Magistrate, Kolar Sub Division, I am directed to forward herewith, for information, a copy of letter No. R.J.C. 712 of 1920-21, dated the 27th August 1921 (with that of its enclosure) received from the District Magistrate of Kolar in the matter and to state that the District Magistrate reports that properties recovered till now amounts to Rs. 178 in value and that further investigation is proceeding and that final report would be submitted after the disposal of the cases.

I am also to add that on receipt of final report from the District Magistrate, a report will be made to Government on the subject.

I have the honour to be,
Sir,
Your most obedient servant,

Sreenivasa Raghavachar
7/9/21

Letter No. R.J.C. 712 of 1920-21, dated 27th August 1921, from the District Magistrate of Kolar to the Registrar of the Chief Court of Mysore, Bangalore.

In continuation of my letter No. J.C. 712/1920-21, dated 31st May 1921, and with reference to your Market No. R.C.C. 889/1920-21, dated the 13th Instant, in the matter of the loss by theft of certain properties and cash connected with certain criminal cases, on the file of the First Class Magistrate, Kolar Sub Division, I have the honour to forward herewith, a copy of letter No. Mis. 1993, dated 3&th June 1921, from the Superintendent of Police, Kolar, in the matter and to state that, both the offences are reported to have been committed by the same persons.

The accused persons have since been charge sheeted before the Second Class Magistrate, Kolar Taluk, and the result will be reported after the disposal of the cases.

Sd/- T. Venkatarama

For District Magistrate

Kolar District.

Letter (copy) No. Mis. 1993, dated 3/7th June 1921, from the Superintendent of Police, Kolar District, to the Deputy Commissioner, Kolar District.

With reference to your No. R.J.C. 712/1920-21, dated the 13th Instant, calling for a full and clear report on the burglary cases that were reported to have occurred in the Kolar Sub Division Office, since February last, I have the honour to report as follows regarding the

there was suspicion against him. He was arrested on 16-2-1921. The house of this person as also that of Bhujanga Rao were duly searched, but nothing connected with the case was found. It was ascertained that through the negligence of these two persons that the offence took took place, that the son of Gouse Sabi who is under employment in Railway Police might have prearranged with some of the gang of the railway line and might had the offence committed. There was strong suspicion against Bhujanga Rao himself because from the circumstances it could be seen that some of the properties now reported to be lost had been concerned in cases which had been disposed of and which were pending delivery to the parties concerned, but they had neither been delivered to the parties nor kept under the safe custody in the Treasury, that the cash alleged to have been lost might have been utilized by himself, for his household expenses or to clear off his debts as he was much involved and it was suspicious that all on a sudden he should have got up this complaint to shake of his responsibility and to waive suspicion against himself.

During the remand period of 15 days obtained for Gouse Sabi, no clue could be obtained from him regarding the case and hence he was let on bail. Bhujanga Rao was also placed under suspension on 4-3-1921, by the Sub Division Officer. Some of the Local gold smiths had been employed to give information leading to the detection of the jewels, but to no avail. The movements of the suspects were being closely watched.

The undersigned had also deputed informants, and was on alert in the detection of the case. The Taluk police had also been instructed to be on a careful watch. Thereafter the undersigned got information on 18-5-1921 that a Chetty

that as they lost courage they had to return that night, but again they went the next night, i.e. on 15-2-1921, and effected entrance inside by breaking the bolt of the outer door with the help of the above instruments, that he (first accused) took out a cover containing gold and silver jewels, while the second accused took out the cash contained in the bags, and retained their respective booty with them, that they opened a trunk kept in the same room and on finding it containing clothes etc. left the same strewn under a tree, that after some days, out of the ~~jewels~~ jewels he got, he had a pair of bugadies, a pair murus and gold bille flower melted by goldsmith Subbachari of this town, through the help of Archak Krishnamachar who he knew, that afterwards they were sold to Pindumallan Pattabi for Rs. 31-8-0 and of the sale proceeds, 9 annas were paid to the Goldsmith as wages and 8 annas more to Krishnamachar who effected the sale, that after a lapse of 15 or 20 days he again got a golden volle melted by the same goldsmith and got Rs.18/- as the sale proceeds, that as the second accused did not give him the correct amount of cash he got, he in turn did not give him any share in the sale proceeds of the jewel and on this account the second accused had been rather ill-disposed towards him, and that subsequently he purchased a cow and a calf out of the sale proceeds of the jewels that remained with him.

As for the second accused Galeb Muniappa he was questioned about this and was asked to produce if he had the crowbar and the suthige with him, which he was previously alleged to have brought for opening the door. On his denial, his house was searched on 14-5-1921 with the result that the above named articles were found therein. These were also duly seized under a mahazar. But no other articles were found there except the two implements.

The houses of Samson and Nichodema Thim

property book, with those that were found outside, it was learnt that nothing ~~was~~ had been lost.

In the course of the investigation of the first case and on enquiry of the accused John, it was ascertained that himself, Caleb Muniappa, Samson and Nichodema committed the abbve offence also on the night of 11-8-1921, that they got the pad lock removed with the help of the crowbar brought by accused Caleb Muniappa (second accused in the 1st case) and brought the four ~~boxes~~ boxes in question outside and a tamarind tree but as they did not contain any valuable jewels they had not taken anything but left them away.

The offence is really one of mischief probably to throw the police off the scent as they had been on alert in the detection of the first case. How far Samson and Nichodema are concerned in the present offence is being ascertained. According to ~~xx~~ the version of the Head Clerk and the Judicial Clerk no property is reported to have been lost in the case.

Under these circumstances it can be inferred that accused John and Caleb Muniappa are responsible for both the offences but the complicity of Samson and Nichodema is not established beyond the statement of accused John.

Final reports will be submitted in both the cases and the result will be duly reported.

Sd/- T. Venkataramaiya,
For District Magistrate.

"Copy"

Sheenisalappeka
7/9/21

REGISTRAR.

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R.O.C. 889 of 20-21 Encl 1 Title

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CS 139-20-7

(37)

CHIEF COURT OF MYSORE

Bangalore, dated 10th July 1922.

14 JUL 1922

JUDICIAL BRANCH.

From

G. Sreenivasa Iyer, Esqr., B.A., M.L.,

Registrar of the Chief Court of Mysore,

B a n g a l o r e.

14 JUL 1922

To

B. Venkoba Rao, Esqr., B.A.,

Secretary to the Government of Mysore,

General Department, Bangalore.

CS

14/7

S i r,

In continuation of my letter No. R.O.C.889/20-21 dated the 6th September 1921 in the matter of the loss by theft of certain properties and cash connected with certain Criminal cases on the file of the First class Magistrate, Kolar Sub Division, I am directed to forward herewith copies of letter No.R.J.C.712 of 1920-21 dated the 27th April 1922 and of its enclosures, received from the District Magistrate, Kolar, and letter No. R.O.S.705 of 1920-21 dated the 2nd May 1921, from the First class Magistrate, Kolar Sub Division, to the District Magistrate, Kolar and to state that valuable properties and cash of the value of Rs.388 connected with Criminal cases Nos. 62 of 1920-21, 111 of 1919-20, 83 of 1920-21 and 87 of 1920-21 on the file of the First class Magistrate, Kolar Sub Division were stolen on the night of the 15th February 1921. As the result of Police investigation two Christian residents of the Kolar Town were charge-sheeted, one of them was convicted and sentenced to 3 months' rigorous imprisonment and a fine of Rs.10/- and the other was discharged by the Amildar and Second class Magistrate, Kolar, and property valued at Rs.178 was recovered.

The

The District Magistrate reports that a sum of Rs.210-2-0 was also recovered from H.C. Bhujanga Rao, Judicial clerk of the First class Magistrate's court.

It is clear from the enclosed letters that these properties were not kept in an iron safe or in a box left in the Treasury for safe custody as required by the rules. The standing orders on the subject are Criminal Circular Letters Nos.175 dated 31-3-1908; 188 dated 30-4-1913 and 216 dated 27-2-1920 issued by the Chief Court and Rule 52 printed at page 10 of the Supplement to the Manual of General Circulars and Standing Orders - (Chapter I - Office Routine), and under these rules the first class Magistrate was responsible for the safe custody of the properties produced in Criminal cases filed in his court and they should have been kept in an iron safe or in a box secured in the Treasury. As obviously there was no iron safe in the Magistrate's court, and as the value of the properties was more than Rs.100/ the Magistrate should have kept them in a box and sent it to the Treasury instead of leaving them to remain in court in the charge of the court clerk. The explanation of the First class Magistrate in the matter is not satisfactory.

I have the honour to be,

S i r,

Your most obedient servant,

E Srinivasa Rao

REGISTRAR.

Letter No. R.JC. 712/20-21, dated 27th April 1922. ~~C. No.889/20-21~~ from the District Magistrate, Kolar District, to the Registrar of the Chief Court of Mysore, Bangalore.

In continuation of my letters Nos. J.C. 712/20-21 dated 4-3-1921, 31-5-1921 and 9-1-22, I have the honor to submit for the information of Government, the following report on the theft of Court properties of the First Class Magistrate, Kolar Sub Division on the night of the 15th February 1921.

2. The property stolen as detailed in the statement enclosed, consisted of currency notes, cash and gold and silver articles estimated at Rs. 388/2/0 in value. (Cash & currency notes for Rs. 261-6-0 and gold and silver article Rs. 126-12-0). Except a sum of Rs. 19-2-0 (witness batta) the rest was court property in 3 cases 2 of which had been disposed of and the other which was pending. A sum of Rs. 14/- related to the Pending case and the balance of Rs. 228-4-0 (currency notes and cash) and gold and silver articles valued at Rs 10/- pertained to a case disposed of on 3-1-21 + gold & silver articles of the value of Rs. 116-12-0 belonged to another case disposed of on 19-7-20.

3. The First Class Magistrate in charge of the Court, Mr. T. Venkataramaiya suspected the Court Clerk H. C. Bhujanga Rao and placed him under suspension stating at the same time that his case would be favourably considered if he produced the value of the stolen properties. (Vide of Memo No:4-3-1921 enclosed). In pursuance of this order, the clerk produced a sum of Rs.150/- and prayed that he may be reinstated and given some time to pay up the balance. The recommendation of the Magistrate in this respect was not approved by me as a large sum of money had yet to be recovered and the Police who were investigating the case had no clue about the culprits. Subsequently, the Police recovered property of the value of Rs. 178/- from two christian residents of the Kolar Town who were not acquainted with the Court Clerk. Thus the suspicion that the Clerk was concerned in the theft of the properties having been cleared up, he was re-instated and the period of suspension was treated as absence on leave with

allowances

allowances and the balance of Rs. 60-2-0 was recovered from his leave allowances. Thus out of the property lost, articles of the value of Rs. 178/- were recovered from the culprits by the Police and the balance of Rs. 210-2-0 was recovered from the Clerk in cash and from his leave allowances.

4. Of the two accused charge-sheeted, one was convicted and sentenced to 3 months rigorous imprisonment and a fine of Rs. 10/- and the other discharged by the Amildar and 2nd Class Magistrate, Kolar, in whose court the case was filed by the Police. The Police investigation and the result of the trial in the Court shows that the Court Clerk was in no way connected with the theft as suspected by the Division Magistrate Mr. T. Venkataramaiya. The Clerk has now presented an application praying for the refund of Rs. 210-2-0 which was recovered from him.

5. Now with regard to what the circumstances were which rendered the loss possible, how far it was due to the defective system of supervision and how it could have been avoided, I have to observe that the stolen properties mostly related to cases already disposed of and were valuables requiring to be kept in the Treasury and not in the Court house in the custody of the Clerk. Vide Chief Court Circular No:175 dated 31-3-1908. The omission on the part of the Magistrate to follow the instructions laid down therein made the loss of the property possible.

6. With regard to the question who is responsible for the loss, it will be seen from the list attached that the articles were valuable ones connected with the cases disposed of and which had to be lodged in the Treasury in a box safely locked and the Chief Court Circular cited in para 5 supra, in a way, fixes the responsiblity of the Court Clerk and the Magistrate with regard to property produced in the Court.

7. This Circular lays down instructions for the guidance of all judges and Magistrates in regard to money and property produced in Criminal Courts. As per para 2 of the said Circular, all gold and silver and other articles of value should be kept in the Treasury in

a

List showing the particulars of the properties lost in c

Cr: Case No:	Names of parties	Date of institution	Date on which property produced	Description of
1.	2.	3.	4.	
C.C.62/20-21	Govt per Munivenkatamah of Masti ~~Vs~~ Junja	19/10/20	3-11-20	(1) Empty purses (2) Cash 11 White & 2 Red. (4) A, (5) Cash Rs 49/- (6) (8) One pair of gatti Rs 5/- (10) 3 C. Notes
C.C.111/9-20	Govt per P. Venkata Ramaiah ~~Vs~~ Chick Venkatiga & another	5-3-20	4-5-20	(1) One pair of gold (2) A pair of Silver (3) A pair of gold (4) A pair of gold (5) Gold Ethande (6) Gold Bavali (7) One Gold Kyaga
C.C.83/20-21	Govt ~~Vs~~ Saraswathamma & another	26-11-20	26-11-20	Cash Rs 14/-
C.C.87/20-21	Reddamunisami ~~Vs~~ Venkataramana Setty	3-12-20	12-1-21	Cash Rs 19-2-0 (Co

"Co

Reg

theft which took place in February 1921. 43

5. the property	6. Value approximately			7. Date of Disposal of the Case.	8. When was the property last taken out of the property box kept in the Treasury	9. Name of the party to whom the property is to be returned.
Rs 141-4-0 (3 1/3 Cut Stones						
rse with black stripes.						Mani Venkatamah
sh Rs 30/- (7) 2 Silver Rupees	238	4	0	3-1-21		of Masti
ver (9) One Currency Note of						
of One Rupee each.						
Brigadier with Mouthpiece						
n Kanicle.						
thari bavali						Somamma
licle.	116	12	0	19-7-20		of Gollahalli
of Syamanthige Cilli						
	14	0	0	pending		
	19	2	0	pending		
vese Batta)						
					Gundiappa	10-2-0
Total	388	2	0		Ramachandrarao	4-8-0
					Judl. Clerk Malurbagal	4-8-0
						19-2-0
					Cash	253-6-0
					Currency Notes	8-0-0
					Gold	116-12-0
					Silver	10-0-0
						388-2-0

sd/- H.C. Bhujanga Rao
Court Clerk, 19.3.21.

sd/- E Srinivasa
Tasildar

Letter No. R.O.S.705/20-21, dated 2nd May 1921, from the First Class Magistrate of Kolar Sub Division, to the Distfict Magistrate of Kolar.

With reference to your Memo No. 712 of 1920-21, dated 15th April 1921, forwarding a copy of docket from the Registrar of the Honourable the Chief Court in Mysore, and enquiring why the procedure prescribed in the standing orders was not followed regarding the safe custody of the court properties, I have the honour to state that as per instructions contained in the circular letters Nos. 175 dated 31-3-1908 (quoted by you) and 216, dated 27-2-1920 referred to in the Registrar's docket, all properties of value were being kept in a secure box and lodged in the District Treasury for safe custody. I keep the ~~safe~~ seal and the box is invariably opened and closed in my presence, and the lock is put on by the court clerk as under the rules published in the Criminal Digest published by the Registrar of the Chief Court of Mysore, it is the Nazir of the Magistrate's Court that receives the properties from the Police, and it is he that is responsible for its safe custody and production when required.

2. As this practice of depositing cash and valuables in the District Treasury is being followed for several years in this court, no arrangements for guarding Treasure at nights contemplated in Rule 52 of office routine were made.

The properties lost consist of cash Rs. 253-6-0; currency notes Rs. 8-0-0; and gold and silver ornaments

valued

valued Rs. 126-12-0, amounting in all to Rs. 388-2-0. The bulk of these properties pertains to two disposed of cases one of which was disposed ~~on~~ of on 19-7-1920 and the other on 7-1-1921 while the remainder lost was Rs. 33-2-0 of which Rs. ~~19-2-0~~ 19-2-0 was deposited as witness batta in one case, and Rs. 14-0-0 had been seized by the police in a theft case and not claimed by the complainant. There was no reason for any of these being kept out of the Treasury.

4. I have already brought to the kind notice of the District Magistrate that the judicial clerk must have wilfully taken these properties from out of the box lodged in the Treasury. He was the official that handled the articles. and when he was disposed to be dishonest, it was no difficult task for him to keep a few articles out as some valuables had to be kept into the Treasury Box and a very large number of them which were ordinary articles were stowed away in his room. I think he must have done this when he last opened the box on 11-1-1921. In the pressure of work and in a heavy court like this, it is impossible for a magistrate to see that every item of property relating to each case is replaced before the box is locked up and sealed every day.

5. The circumstances under which the theft is alleged to have taken place, are in themselves so highly suspicious as the Police enquiry would surely bring out during their investigation and the very fact that there was not the slightest plausible excuse for the judicial clerk to keep such valuable properties out of the box lodged in the Treasury especially when the cases were disposed of and they were not likely to be required until the owners turned up and claimed delivery, that it leaves no room to doubt that

this

IN THE COURT OF THE 2nd CLASS MAGISTRATE, KOLAR TALUK.

Dated 22nd December 1921.

PRESENT: - V. S. Rajagopala Char, Esquire, 2nd class Magistrate.

CRIMINAL CASE NO.172 OF 1920-21.

Complainant.	Accused.
Government for Bhujanga Rao.	1. A. John. 2. Muniappa.

J U D G M E N T

1. This is a case of housebreaking and theft under sections 457 and 380, Indian Penal Code in the Kolar Sub Division Office. The Police investigated the case and placed charge sheet before this court on 27th May 1921.

2. The case for the prosecution is that the propefties in several cases disposed off by the 1st class Magistrate and Sub Division Officer, Kolar Sub Division were kept in the Office room without returning them to the parties and that on the night of 15th February 1921 somebody broke open the lock of the office and entered ~~xxxx~~ inside and carried away those properties kept in a box etc., and the police secured the property in the 1st accused's house and charged the two accused under section 457 and 380, Indian Penal Code and placed charge sheet to this court on 27th May 1921.

3. My predecessor Mr. T. T. Ramachandra Rao examined 8 witnesses for the prosecution and as the accused and his ~~xxxxxx~~ counsel did not claim for de novo trial I proceeded with the case and examined 5 more witnesses for the ~~defence~~ prosecution + 3 witnesses for the defence and closed the case.

4. P.W.1 Bhujanga Rao, Judicial clerk, in the Kolar Sub Division office stated that on the 16th February 1921 in the morning, the police asked him to come over to his office as theft had taken place there, that he went there at once and saw the door of property room open, that he went inside and found some properties stolen and gave his statement Ex: P1 to the police with the list of property stolen Ex: P2, that again on 17th February 1921, he gave another list of property Ex: P3 that were stolen, to the police and had mentioned against those properties the cases to which they belong to, that he received the properties presented to the court to his custody, that among the properties before the court Art:1, Uttanda, Article 2 Silver bangles one pair, article 3- silver Savanthigebille, Art.4- Pearls in brassware, Art:5 pieces of sealing wax containing the mark of Savanthige flower, that those articles belonged to C.C.No.111 of 1919-20, that art.6, 3 pieces Jammed silver (ಜಖಮ್ಮಿ ಬೆಳ್ಳಿ) and art:7 - Rs.8/- belonged to C.C.No.62 of 1920-21, that he identified those articles in the police station that he does not know the 1st accused, that he had kept those properties in 2 boxes, that he had valuable properties in another box, that cash was kept both in treasury box and office box, that those properties were in one box, that the cash kept in his drawer was also stolen that he had kept the witness batta amount in his drawer, and the currency notes for Rs.15/- only taken away and the cash was left in the drawers, that the thieves had left a sovereign, a gold piece and 3 or 4 rupees notes kept in a drawer and covered with ~~xxxx~~ a lid and the clothes, that the latch had been removed and ~~xxxxxxxxxxxxxxxxxxxxxxxx~~ the lock was in tact, that there was a trunk in that room which had been removed and thrown under a tree near the malla about a furlong from the office, that only the cash in it had been taken and the clothes some of them thrown outside and that the accused in that case was convicted about 7 months prior that he visited Kasty and informed the party about the loss of their property from office, that he had been to Mulbagal also

but

but did not go to the village where the party was living, that he was under suspension and ordered that he could be restored only after he recoups the cost of the properties, that he had no money, that he wanted to settle the affairs with the parties and he had been to those places and that he was not present when the 1st accused's house was searched, etc.

5. P.W.2 Jamadar Ramachandra Rao stated that he has been in charge of the Town Police since 5th May 1921, that this case was pending with the police then that on 13th May 1921 on some private information he went with the District Superintendent of Police and got the 1st accused searched and recovered a tin case Art:8 with Rs.8/- Art: 7 in it, that at the bottom of the stove at the depth of one foot 2 tin cases arts: 9-10 were found burried and on opening them he found in art:9 tin arts: 2-3-5 & 6 and in Art:10 tin art: 1, was found and art:4 was found in a hole on the wall inside, that he searched the house of the 2nd accused and secured a crowbar art:11 and a hammer art:12, that as he suspected that those impliments were used for committing the offence, he seized them, that he learnt also that the 1st accused on one occasion got some jewels viz., one pair of gold bugudi, one pair muruvu and one gold bille melted and sold the gold and purchased a cow and a calf for that amount and that those jewels also were stolen in the Sub Division offic and that the value of the property recovered was Rs.178/- etc.

6. P.W.3 Venkatramana stated that the house was broken into during day time about a year ago and he had lost the follow ing jewels viz., a gold uttanda art:1 only old pattadi and a pair of silver bangles art:2, a pair of gold bugudi, a gold jada bille with silver screw art 3, a pair of gold mura, one gold bavali, one gold vali and one pair of gold parrot vale, that all those jewels were recovered and produced before the Sub Division Magistrate and he had identified them and the accused in the case was convicted, that he was not given back his jewels that when he enquired about them he was told that they were

stolen in the office, that a few months after P.W.2 Police Jamadar showed him a few jewels and he identified arts: 1,2,3 and 4 as his, that they were worn by his sister Sonnamma P.W.4 that he had been to the court 4 times to receive the jewels and at every time he was asked to come again and at the 5th time when he went to the Sub Division Office he was informed that his jewels were stolen. This witness describes his jewels also in his statement.

7. P.W.4, Sonnamma stated similarly to the above and identified those jewels as hers and was wearing them etc., and added that those jewels were all present in the Sub Division Court but now some of them are missing etc.

8. P.W.5 Krishnamachar stated that he knew the 1st accused and had seen him, that 1st accused had once before i.e.,4 or 5 months prior to the occurrence of the case, came to him and asked him the tamarind crop in his village, that he promised him, but the 1st accused never went to him again, that he did not lease the tamarind trees to any one, that 15 days after the 1st accused again came to him to go with him to P.W.6 for melting some gold jewels, viz., one pair of bugudi, one pair of mura and one Savanthige bille, that he asked the 1st accused why he would melt them when they were good, that the 1st accused told him, they were old jewels and his wife does not want them, that he would sell the gold and purchase a cow, that he took the 1st accused to P.W.6's shop, and got the jewels first weighed and it was 6¼ varahas and after they were melted and reweighed, it weighed the same, that the 1st accused asked him to find a sale for that melted gold and get him a cow, that he P.W.6 and the 1st accused proceeded to Bindul Mallam Pattabhi Ramiah P.W.7, but the 1st accused went half way and said he would go and had confidence with them, that he insisted the 1st accused to go with them but the 1st accused said that he would fetch a cigarette and went away, that they took the gold to P.W.7 and sold it for Rs.32/- and took the amount to the 1st accused's house and paid him, that 1st accused gave him one rupee and asked him

to

to take 8 annas and pay 8 annas to P.W.6 and he did so that 8 days after, the 1st accused again came with a gold parrot vale, that he took him to P.W.6 and left the 1st accused there and went to fetch water, that by the time, he returned, the jewel was melted and weighed that it weighed one rupee and one gulaganji that the 1st accused wanted that also to be sold as he (1st accused) was short of money for the purchase of a cow, that, he sold it to B. Lakshmipathiah P.W.8 for Rs.18/- and paid the amount to the 1st accused in front of Purniah's Chattram, that about two months after the Police Jamadar examined him and that the 1st accused was in the police station then etc.

9. P.W.6 Subbarayappa stated similarly and admitted of his having melted those jewels and selling the gold on the 1st occasion to P.W.7 Pattabhi Ramiah and received annas 8 from P.W.5 as given by the 1st accused etc., that he was sent for by the police at the accused's house, when his (accused's) house was searched, that he weighed arts:1,2,34 and 6/signed the mahazar, that on the same afternoon he gave his statement to the Police, that he knew P.W.5 for over 3 years, that 1st accused had previously got a toe ring prepared by him and since then he knew the 1st accused and the 1st accused told him when he questioned about the jewels that were brought for melting that they were old jewels and not used by the present day Christians and so melted them etc.

10. P.W.7 Pattabhi Ramiah stated that he deals in gold and he purchased the gold for Rs.32/- from P.Ws: 5 & 6 on 7-3-21 at the market rate.

11. P.W.8 Lakshmipathiah stated that he also deals in gold and that he purchased the gold from P.W.5 for Rs.18/- on 31-3-21.

12. P.W.9 Moses stated that he was present when the

2nd accused's house was searched by the police and secured art: 11 crowbar, and art:12 one hammer, that the 1st accused was also present and he was a carpenter, and the 2nd accused was a mason that he lives about 50 yards from the 1st accused's house, that 1st accused's ~~xxxxx~~ wife had been to Mysore for training that the 1st accused was visiting Mysore and returning during that period etc.

13. P.W.10 Samuel states that he was present when the 1st accused's house was searched by the police, that the Superintendent of Police was also present at the time and stated about the finding of jewels burried under the stove one foot below and another jewel in a hole in the wall as stated by P.W.2 Police Jamadar and identified those jewels etc., this witness wrote the mahazar and states that 1st accused was frequently visiting Mysore while his (1st accused) wife was undergoing training there etc.

14. P.W.11 Munivenkatamma stated that about a year ago a theft took place in her house in Masti village (Malur Taluk) and lost several jewels and cash Rs.235/- and three sadies. that all her properties were recovered by the police and were produced before the 1st class Magistrate (Sub Division Officer) and the accused in that case was convicted, that she had identified her property in that court and demanded for them after the disposal of the case, and she was informed that jewels would not be given then and they would issue a notice for her presence, that when the clerk of that office visted her in her village she learnt from him that her jewels were stolen in the office, that as having received all her property so that he will pay the value little by little within a year, the clerk requested her to give any receipt. that he refused to give any receipt. This witness describes the jewels etc., and identified art:6(a) and 6(b) as belonging to her etc.

15. P.W.12 Lakshmipathi Shetty stated that the 1st accused purchased from him about 9 or 10 months ago a cow for Rs.48 and identified the cow before the police, that the 1st accused was asking him for the very cow for a month and a half before he

purchased

purchased it for Christmas feets and that he sold the cow 2 or 3 days before the Christmas.

16. P.W. 13 Bodiga son of P.W. 11 stated similarly to his mother's statement P.W. 11 and identified art.6 and 6b and that the clerk visited his mother P.W.11 when he was absent from the village etc.

17. Both the accused denied all knowledge.

18. As there was no evidence against the 2nd accused he was discharged under section 253 Criminal Procedure Code on 7th December 1921 and the 1st accused was charged under sections 457 and 380 Indian Penal Code.

19. The counsel for the 1st accused Mr. Venkatachar, Advocate examined three witnesses for the defence including the 2nd accused as a witness after he was discharged.

20. The D.W.1 is Bhagyamma wife of the 1st accused and she stated that she was in Mysore for training with her husband i.e., 1st accused was also with her and earning the wages in the Technical Institution in Mysore, that she had left her children in Bowringpet with her Father-in-law and during their absence the offence had taken place here, that her husband (1st accused) was visiting Bowringpet to see his children and return, that she was present at the time when her home was searched by the Police, that she bears zid with one Kempamma her neighbour, that at the time of search, that Kempamma made some sign with a broom stick in her hand and keeping it near her mouth and blowing out, that thereupon the Police examined the stove and secured those articles and that it must have been done by some one and not by her husband etc.

21. D.W.2 Muniappa, 2nd accused(discharged) stated that he lives next to the 1st accused's house, that he bears no zid with the accused and 3 or 4 years ago there was some quarrel between his wife and the 1st accused's wife P.W.1 but no panchayat took place nor he was fined, that he used to talk to the 1st accused whenever he met him on the road etc.

* 21.

22. D.W.3. Muniappa stated only about the 1st accused's wife going to Mysore and the 1st accused and children after remaining here for some time then went to Mysore and cannot

state

state how long they were absent and when they returned etc.

23. The D.W.1 being the wife of the 1st accused naturally finds some means to save him. She admits that her eldest son and a daughter were in the Mission here only when she had been to Mysore. If the husband was actually living in Mysore and visiting Bowringpet to see his children, he would naturally visit Kolar also to see his other two children in the Mission. Further if what she says about Kempamma is true she would have atonce informed the District Superintendent of Police or any Panchayatdars who were present in her house at that time. No other witnesses speak to this point and hence that point must be thoroughly false. The other 2 D.Ws know nothing.

24. Apart from the jewels recovered from the 1st accused, there is evidence to show that he got melted some more jewels such as Bugudi, Muru, and Vale etc., and sold the gold and purchased a cow. Those Jewels also must have been stolen from the Sub Division Office as those properties are also said to have been there and identified by its owners perhaps P.Ws 11 and 12 whose properties not recovered at all. P.Ws 5, 6, 7 and 8 speak about those jewels.

25. The council for the defence has cross examined those witnesses more for identification. When the accused do not own them there was no necessity at all for such a long examination on that point. The property is in dispute and they belong to those witnesses and were lost in the Sub Division Office. Most of them were found burried under a stove in the accused's house and they were traced by the Police in the presence of the Panchayatdars and District Police Superintendent. There was no reason for any doubt whatever for their finding. The 1st accused alone or with some others must have committed this offence.

26. The 2nd accused Muniappa was discharged on 7th December 1921 as there was no evidence against him and the Court for the above reasons finds the 1st accused John guilty under section 457, 380 Indian Penal Code and accordingly directs that the 1st accused A. John be convicted and sentenced to undergo 3 months rigorous imprisonment and to pay a fine

of

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read:-

Correspondence ending with letter No. R.O.C. 889 of 20-21 dated 10/15-7-22 from the Registrar, Chief Court, in the matter of the loss by theft of certain property and cash connected with certain Criminal Cases on the file of the First Class Magistrate, Kolar Sub Division.

On the night of the 15th February 1921, the Court-house of 1st class Magistrate, Kolar Sub Division was broken into and properties valued at Rs. 388-2- (including cash) were removed. These properties were kept in an almirah in charge of the Judicial clerk instead of being sent to the Treasury for safe-custody. The Magistrate in charge of the Court, Mr. T. Venkataramiah, inspected the clerk Bhujanga Rao and placed him under suspension. A sum of Rs. 210-2-0 was also recovered from him.

The offence was ultimately traced by the Police to a Christian resident of Kolar and he was prosecuted and convicted in Criminal Case No. 1724 on the file of the Amildar Magistrate of Kolar. Property worth Rs. 178 was recovered by the Police in the case and this together

with the money paid by the clerk makes up the total value of the property lost.

The judicial clerk's innocence having been established, he was re-instated in his appointment and the period of suspesnion was treated as absence on leave with allowances.

As regards the refund of the money paid by the clerk, the Chief Court have observed while forwarding their final report in the case that under Standing Orders the First Class Magistrate was responsible for the safe-custody of the properties and that they should have been kept in an iron safe or in a box secured in the Treasury, instead of being allowed to remain in Court in charge of the Court Clerk. They have also stated that the explanation of the Magistrate shifting the responsibility to the court clerk, whom he calls the Nazir of the Court, is not satisfactory.

Government agree with the Chief Court and hold that the Magistrate, Mr. T. Venkataramaiya, cannot be exonerated from blame, in-as-much as he failed to enforce the Standing Orders regarding the custody of property and to exercise sufficient supervision over the work of the clerk. The clerk is not also free from blame as he took too much responsibility on himself in keeping the properties in his custody. As both the Magis-

trate